

**93-O-20**

**AN ORDINANCE**

**Amending Title 7 of the City Code to Allow Permits for Grass Planting and Temporary Fencing on City Parkways**

**NOW BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EVANSTON, COOK COUNTY, ILLINOIS:**

**SECTION 1:** City Code Section 7-8-4-1 “Restricted Parkway Plantings” of the Evanston City Code of 2012, as amended, is hereby further amended as follows:

**7-8-4-1. – RESTRICTED PARKWAY PLANTINGS.**

(D) Temporary Fencing Allowed. Temporary fencing for the purpose of restoring landscaped parkway is allowed one (1) time for up to eight (8) weeks between March 15 and November 15 each year without a City permit. The temporary fencing shall consist of posts and/or stakes that are twenty-four (24) to thirty-six (36) inches in height and comprised of flexible, non-metal material and string and/or twine that is tightly wrapped around the posts to protect the parkway area being restored. Residents are responsible for maintaining the temporary fence in a neat and erect position. Residents must sign an Indemnification Agreement with the City prior to erecting such temporary fencing.

**SECTION 2:** City Code Section 7-2-4-1 “Permit Required” of the Evanston City Code of 2012, as amended, is hereby further amended as follows:

**7-2-4-1. – PERMIT REQUIRED.**

No person shall use any space underneath the surface of any street or other public property in the City, nor construct or maintain any structure thereunder without first having obtained a permit so to do from the Director of Public Works or his/her designee. No permit required herein shall be issued except as provided in this Section. This section does not apply to temporary fencing erected in compliance with City Code Section 7-8-4-1(D).

**SECTION 3:** City Code Section 7-2-9-2 “Buildings, Fences in

Streets” of the Evanston City Code of 2012, as amended, is hereby further amended as follows:

**7-2-9-2. – BUILDINGS, FENCES IN STREETS.**

It shall be unlawful for any person to erect, construct or place any building, fence, porch, steps, gallery, signs or any other hazard or other obstruction, in whole or in part, upon any street, alley, sidewalk or other public ground within the City, or for the owner of such building, fence, porch, steps, gallery or other obstruction or the person in possession and control thereof to permit the same to remain in or upon such street, alley, sidewalk or other public ground, and said owner or person in possession and control thereof shall remove such structure within such reasonable time, not exceeding twenty (20) days, as required by written notice served on him/her or his/her agent by the Department of Public Works or the Department of Police. Any person who fails to remove such obstruction as required by this Subsection shall be subject to a daily fine of not less than one hundred dollars (\$100.00) and not more than five hundred dollars (\$500.00).

Whenever the owner or person in possession or control of any building, fence or other obstruction in or upon any street, alley or sidewalk or public grounds in the City shall refuse or neglect to remove the same, after notice aforesaid or without notice if the owner cannot be readily found for the purpose of such notice, the same shall be deemed a nuisance, and it shall be the duty of the Department of Police or the Department of Public Works to summarily remove or take down the same or cause the same to be removed or taken down, and the expense thereof charged to the owner. It shall be unlawful for any person to oppose or resist the execution of the orders of the Department of Public Works or the Department of Police in these premises.

This section does not apply to temporary fencing erected and maintained in compliance with City Code Section 7-8-4-1(D). Failure to comply with Section 7-8-4-1(D) will result in penalties as defined in this Section.

**SECTION 4:** That the findings and recitals contained herein are declared to be prima facie evidence of the law of the City and shall be received in evidence as provided by the Illinois Compiled Statutes and the courts of the State of Illinois.

**SECTION 5:** That all ordinances or parts of ordinances in conflict herewith are hereby repealed.

**SECTION 6:** This Ordinance 93-O-20 shall be in full force and effect from and after its passage, approval and publication in the manner provided by law.

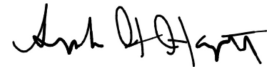
**SECTION 7:** If any provision of this Ordinance or application thereof to any person or circumstance is ruled unconstitutional or otherwise invalid, such invalidity shall not affect other provisions or applications of this Ordinance that can be given effect without the invalid application or provision, and each invalid provision or invalid application of this Ordinance is severable.

Introduced: December 14, 2020

Approved:

Adopted: January 11, 2021

January 18, 2021



Stephen H. Hagerty, Mayor

Attest:



Devon Reid  
City Clerk

Approved as to form:



Kelley A. Gandurski  
Corporation Counsel



## **TEMPORARY PARKWAY FENCING AGREEMENT**

### **TEMPORARY FENCING**

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Applicant agrees to comply with the requirements of City Code Section 7-8-4-1. Applicant further agrees that the City maintains the right to perform work in and around the area of the temporary fencing.

### **INDEMNIFICATION**

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- A. The Applicant shall defend, indemnify and hold harmless the City and its officers, elected and appointed officials, agents, and employees from any and all liability, losses, or damages as a result of claims, demands, suits, actions, or proceedings of any kind or nature, including but not limited to costs, and fees, including attorney's fees, judgments or settlements, resulting from or arising out of any negligent or willful act or omission on the part of the Applicant or Applicant's agent related to the temporary fencing. Such indemnification shall not be limited by reason of the enumeration of any insurance coverage.
- B. Nothing contained herein shall be construed as prohibiting the City, or its officers, agents, or employees, from defending through the selection and use of their own agents, attorneys, and experts, any claims, actions or suits brought against them. The Applicant shall be liable for the reasonable costs, fees, and expenses incurred in the defense of any such claims, actions, or suits. Nothing herein shall be construed as a limitation or waiver of defenses available to the City and employees and agents, including but not limited to the Illinois Local Governmental and Governmental Employees Tort Immunity Act, 745 ILCS 10/1-101 *et seq.*
- C. At the City Corporation Counsel's option, Applicant must defend all suits brought upon all such Losses and must pay all costs and expenses incidental to them, but the City has the right, at its option, to participate, at its own cost, in the defense of any suit, without relieving Applicant of any of its obligations under this Agreement. Any settlement of any claim or suit related to the temporary fencing by Applicant must be made only with the prior written consent of the City Corporation Counsel, if the settlement requires any action on the part of the City.

- D. Applicant shall be responsible for any losses and costs to repair or remedy work performed relating to the temporary fencing. Acceptance of the erection of temporary fencing by the City will not relieve the Applicant of the responsibility for subsequent correction of any such error, omissions and/or negligent acts or of its liability for loss or damage resulting therefrom.
  
- E. All provisions of this Indemnification section shall survive completion, expiration, or termination of this Agreement.

**Applicant**

By:

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Name:

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Date:

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